

DISPUTE RESOLUTION (Grievance) PROCEDURE

Policy:

It is the policy of the Adjutant General's Department that all employees should have an opportunity to present their work-related complaints and to appeal management decisions through a dispute resolution procedure. The Adjutant General's Department will attempt to resolve promptly all disputes that are appropriate for handling under this policy.

Comment:

- (1) An appropriate dispute is defined as an employee's expressed dissatisfaction concerning any interpretation or application of a work-related policy by management, supervisors, or other employees. Examples of matters that may be considered appropriate disputes under this policy include:
 - (a) A belief that Adjutant General's Department policies, practices, rules, regulations, or procedures have been applied inconsistently to an employee;
 - (b) Treatment considered unfair by an employee, such as coercion, reprisal, harassment (including sexual harassment), or intimidation;
 - (c) Alleged discrimination, for example, because of race, color, sex, age, religion, national origin, marital status, or disability; and
 - (d) Improper or unfair administration of employee benefits or conditions of employment such as scheduling, vacations, fringe benefits, promotions, retirement, holidays, performance review, salary, or seniority.
- (2) Employees should notify the Adjutant General's Department in a timely fashion of any dispute considered appropriate for handling under this policy. The dispute resolution procedure is the exclusive remedy for employees with appropriate complaints. As used in this policy, the terms "timely fashion," "reasonable time," and "promptly" generally will mean seven working days.
- (3) The dispute resolution procedure has a maximum of three steps, but disputes may be resolved at any step in the process. Disputes will be processed until the employee is satisfied, does not file a timely appeal, or exhausts the right of appeal under the policy. A decision becomes binding on all parties whenever an employee does not file a timely appeal or when a decision is made in the final step and the right of appeal no longer exists.
- (4) Employees who believe they have an appropriate dispute should proceed as follows:
 - (a) Step One — Promptly bring the complaint to the attention of the immediate supervisor. If the dispute involves the supervisor, then the employee may proceed directly to step two. The supervisor, if authorized should investigate the complaint or refer it to the Human Resources Department for handling by a qualified investigator, attempt to resolve it, and give a decision to the employee within a reasonable time.
 - (b) Step Two — Appeal the decision to Human Resources, if dissatisfied with the supervisor's decision, or initiate the procedure with Human Resources if Step One has been bypassed. This appeal or initial dispute notification must be made in a timely fashion using the Grievance Form. The supervisor's version of the dispute and decision then will be requested by Human Resources. Human Resources will, in a timely fashion, confer with the employee, the supervisor, and any other members of management considered appropriate; investigate the issues; and communicate a decision in writing to all the parties involved.

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REF: K.A.R. 1-12-1

- (c) Step Three — Appeal an unsatisfactory department head decision to the Adjutant General. The timeliness requirement and procedures to be followed are similar to those in Step Two. The Adjutant General will take the necessary steps to review and investigate the dispute and will then issue a written, final, and binding decision.
- (5) The Human Resources Department will provide training and support to supervisors and department heads in dealing with employee complaints. In addition, employees should be encouraged to consult on a less formal basis with the Human Resources Department, their supervisors, or other members of management regarding employee complaints or disputes.
- (6) Final decisions on disputes will not be precedent-setting or binding on future disputes unless they are officially stated as Adjutant General's Department policy. When appropriate, the decisions will be retroactive to the date of the employee's original dispute notification.
- (7) Information concerning an employee dispute will be confidential. Supervisors, department heads, and other members of management who investigate a complaint may discuss it only with those individuals who have a need to know about it or who are needed to supply necessary background information or advice.
- (8) Time spent by employees in dispute discussions with management during their normal working hours will be considered hours worked for pay purposes.
- (9) Employees will not be penalized for proper use of the dispute resolution procedure. However, it is not considered proper use if an employee raises complaints in bad faith or solely for the purposes of delay or harassment or repeatedly raises meritless disputes. Implementation of the dispute resolution procedure by an employee does not limit the right of the Adjutant General's Department to proceed with any disciplinary action that is not in retaliation for the use of the dispute resolution procedure. In addition, employees and supervisors are prohibited from retaliating against an employee who properly uses the dispute resolution procedure.
- (10) The Adjutant General's Department may, at its discretion, refuse to proceed with any dispute it determines is improper under this policy. Further, this policy does not alter the employment-at-will relationship in any way.

Notes

- 1) Timelines are counted as follows: Date of occurrence is considered Day 1. Date of receipt is considered Day 1.
- 2) Deadline extensions may be made by mutual agreement or by the Director of SHR for extenuating circumstances.
- 3) In the event a supervisor is unavailable to process a grievance, a designee may be appointed to address the matter.
- 4) Those responding to the grievance may meet with the employee to provide a full discussion of the matter. The employee must represent him/herself.
- 5) At any time during the process if mediation or assistance is desired, the Director of SHR may be contacted.
- 6) Failure by a supervisor to meet a timeline allows the employee to take the grievance to the next supervisory level.
- 7) Failure by the employee to meet a timeline shall be considered a settlement of the grievance based on the last decision.

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- 8) Employees covered under a local union may file a grievance under one system only.
- 9) Employees have the right to file civil rights complaints with appropriate enforcement agencies.